

P-1567/NA-92-232 ORDER TO SHOW CAUSE

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm	Chair
Tom Burton	Commissioner
Cynthia A. Kitlinski	Commissioner
Dee Knaak	Commissioner
Norma McKanna	Commissioner

In the Matter of American Inmate Phone Systems' Application to Provide Inmate-Only Telephone Service	ISSUE DATE: February 5, 1993 DOCKET NO. P-1567/NA-92-232 ORDER TO SHOW CAUSE
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PROCEDURAL HISTORY

On August 20, 1991, American Inmate Phone Systems (AIPS or the Company) submitted an application for authority to provide coin operated customer owned telephone (COCOT) service in Minnesota. The matter was assigned to Docket No. P-1567/CT-91-640.

Upon learning that AIPS had been providing telephone service in Minnesota without authority from the Commission, the Minnesota Department of Public Service (the Department) opened an investigation into the operations of the Company. Docket No. P-1567/DI-91-717.

On March 16, 1992, the Company withdrew the COCOT application.

On March 23, 1992, the Company submitted an application to provide inmate-only telephone service, but without proposed tariff pages or other indication of rates charged by the Company.

On December 30, 1992, AIPS completed the inmate-only telephone service application authorized by the Commission in its July 9, 1992 Order in Docket No. P-999/CI-91-22. The Company also requested a waiver of the requirement that it identify its sub-carrier on its bills.

On January 12, 1993, the Department filed its report and recommendations in this matter. In its report, the Department

1. informed the Commission that it had determined that the Company was in violation of Minn. Stat. Chapter 237 by providing telephone service without Commission authority and that the Company had not completed responses to the Department's data requests;

2. stated that, upon completion of its investigation of the Company (total revenues earned and locations served) the Department would pursue the imposition of civil penalties in District Court through the Office of the Attorney General if the Department concluded that this was warranted;
3. advised the Commission that the Company's proposal for authority was in accordance with the Commission's requirements for inmate-only service established in Docket No. P-999/CI-91-22; and
4. recommended that the Commission grant AIPS a one year interim authority to provide inmate-only service, the same authority granted to other companies providing alternative operator services (AOS) in 1992.

On February 2, 1993, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

AIPS is seeking a certificate of authority under Minn. Stat. § 237.16 (1992). As such, the Company must not only meet the requirements detailed in Docket No. P-999/C I-91-22 but must show that the public convenience and necessity requires the granting of such a certificate.

The Department reported that AIPS has been in substantial violation of Minn. Stat. Chapter 237 by providing telephone service without Commission authority since February 20, 1990, 18 months before even submitting its COCOT application on August 21, 1991 and over two years before submitting the current inmate-only service application. The Department stated that it has been unable to complete its investigation of the extent of the Company's violation because the Company has not responded to the Department's data requests.

The Company's provision of telephone service without authority from the Commission to do so and the Company's failure to respond to the Department's information requests regarding the extent of the Company's pre-authority operations clearly raises concerns regarding the Company's fitness to operate as a telephone company in Minnesota and whether the public needs to have the service of such a company.

Since the applicant bears the burden of proof on all elements of its application for a certificate of authority and the Company has not borne its burden in this regard to date, the Commission is prepared to deny the Company's application. In lieu of denying the application at this time, however, the Commission

will direct the Company to respond to this Order.

ORDER

1. Within 15 days from the date of this Order to Show Cause, American Inmate Phone Systems (AIPS or the Company) shall file a response to this Order and serve a copy upon the Minnesota Department of Public Service (the Department), presenting arguments to show cause why the Commission should not deny its application for a certificate of authority to provide inmate-only telephone service in Minnesota.
2. As part of its response, the Company shall
 - a. file detailed information explaining the status of its responses to Department information requests and responding to any of the Department's information requests to which it had not responded as of the date of this Order; and
 - b. provide full and complete information regarding any telephone service that it has provided in Minnesota. At a minimum, the Company shall list each location at which it has provided telephone service in Minnesota. For each such location, the Company shall state 1) when it began the service, 2) when it terminated the service, if ever, and 3) the total gross revenues it received from the provision of telephone service at the location. For each location at which the Company terminated service, the Company shall provide documentation that confirms the date of termination and indicates what steps, if any, the Company took to facilitate uninterrupted service from an authorized provider for its former subscribers.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

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